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Ruling on CIA shooter Kasi death appeal expected today

By ELLEN SOROKIN
Journal staff writer

The Virginia Supreme Court is expected to rule today on whether to overturn the death sentence against a Pakistani man convicted of murdering two federal employees outside CIA headquarters in 1993.

The court will decide to set Mir Aijaz Kasi free and return him to Pakistan, change his sentence to life in prison or order a new trial or sentencing hearing.

The decision comes nearly a year after Kasi was convicted for the Jan. 25, 1993, shooting rampage that claimed the lives of Frank A. Darling 28, and Lansing H. Bennett, 66, both of Reston.

Kasi, 34, was convicted on a capital murder charge for Darling's death last November and was sentenced to death earlier this year.

The justices will base their ruling on arguments they heard on several constitutional issues from Kasi's lead attorney, Elwood E. Sanders Jr., and Senior Assistant Attorney General Donald E. Curry at a hearing in Richmond, Va., two months ago.

At the hearing, Sanders claimed that federal agents had no right to arrest Kasi in Pakistan and return him to the United States without getting permission from the Pakistani government. Sanders argued

FBI agents violated provisions of a treaty when they seized him from his country and brought him here for trial in June 1997.

Sanders argued that Kasi was turned over to a Pakistani "facility" rather than the country's authorities after he was arrested on June 15, 1997. He argued that

FBI agent Bradley Garrett, who arrested Kasi in a hotel room in Pakistan, refused to reveal the nationality of the officials who held Kasi when asked during his testimony at Kasi's capital murder trial in Fairfax County last November.

Under the treaty Sanders cited, officials of a foreign country must grant permission before outside authorities can enter their country and arrest a fugitive.

But Curry argued that the treaty does not specifically bar the type of arrest made by FBI agents. Curry argued that Garrett's testimony revealed that Kasi was turned over to Pakistan authorities when he was

arrested.

Kasi is now on death row in Sussex 1 State Prison in Sussex County, Va. He is held in isolation and is under constant surveillance, according to prison officials.

Kasi opened fire on cars waiting at a stoplight outside CIA headquarters on Route 123 in Langley during morning rush hour Jan. 25, 1993. Darling and Bennett were killed, and three other men — Nicholas Starr, Stephen Williams and Calvin Morgan — were wounded.

The next day Kasi fled to Pakistan, where he was arrested more than four years later by FBI agents. On the flight to the United States he signed a confession in which he said the slayings were vengeance for U.S. involvement in Muslim countries.

Last November, a Fairfax County jury found Kasi guilty of 10 state counts: a capital murder charge for killing Darling; a first-degree murder charge for killing Bennett; three charges of malicious wounding; and five counts of using a firearm in the commission of a felony. The jury found that Kasi's crime warranted the death penalty.

In January, Circuit Judge J. Howe Brown Jr. upheld the jury's recommendation and sentenced Kasi to death.



Kasi

In September, Sanders argued to the high court that Kasi's statements were involuntary because agents restrained him and kept him hooded and handcuffed for several days at a time before bringing him to the United States on June 17, 1997.

Curry argued that Kasi signed a Miranda rights form and voluntarily confessed to agents on the plane ride to Virginia.

Sanders also argued that Brown erred when he refused several times to grant defense attorneys' requests to delay the trial until 10 months after Kasi's arrest.

Curry argued that the defense didn't produce any evidence that would have warranted a delay.

Sanders further claimed that jurors engaged in misconduct during deliberations when one of them said that Kasi's crime was "vile" because he "attacked the American way of life." Sanders said attacking the "American way of life" does not constitute villainess.

Villainess is one factor a jury can consider when determining a punishment for the crime.

Curry said Kasi's attorneys have no evidence that any misconduct occurred during deliberations. Curry also said Brown prohibited prosecutors from calling Kasi a terrorist.

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Kasi's arrest valid, Va. high court says

By LARRY O'DELL

Associated Press

RICHMOND, Va. — FBI agents did not violate international treaties when they arrested a Pakistani man in his homeland for killing two CIA employees during a shooting rampage, the Virginia Supreme Court has ruled.

The court Friday unanimously upheld the capital murder conviction and death sentence of Mir Aimal Kasi, who opened fire with an AK-47 assault rifle outside CIA headquarters in Langley during the morning rush hour on Jan. 25, 1993.

Frank Darling and Lansing Bennett were killed as they sat in their cars at a stoplight. Three other men were wounded.

Kasi fled the next day to Pakistan and eluded a global manhunt for four years before FBI agents tracked him down and returned him to the United States. Kasi confessed to the slayings during the return flight, saying he was angry over CIA meddling in Muslim nations.

On appeal, defense lawyer Elwood Sanders Jr. argued Kasi's "forcible abduction" from a Pakistani hotel room violated a 1935 extradition treaty. He also claimed the arrest violated the Vienna Convention because Kasi was not immediately told he had a right to contact the Pakistani consulate for assistance.

The Supreme Court disagreed on both counts.

Justice A. Christian Compton wrote that the extradition treaty "does not . . . prohibit prosecution in the United States where the defendant's presence was obtained by forcible abduction."

And he noted that Kasi was temporarily held in a Pakistani jail before being returned to the United States. The argument that Kasi should have been told of his Vienna Convention rights while being held by Pakistani authorities "makes no sense," Compton wrote.

The court also rejected Kasi's claim that "because his crimes were 'political,' he somehow is entitled to First Amendment protection, and that his

Kasi case chronology

■ Jan. 25, 1993: A gunman opens fire on cars waiting at a stoplight outside the CIA headquarters in Langley. The gunman killed two CIA employees, Frank Darling and Lansing Bennett, and wounded three other men before fleeing. Kasi would soon become a suspect.

■ Jan. 26, 1993: Kasi returns to his native Pakistan.

■ June 16, 1997: FBI agents who had searched for Kasi for more than four years arrest him in a Pakistani hotel room.



Kasi

■ June 17, 1997: Kasi returns to the United States. He signs a detailed confession aboard the plane from Pakistan in which he said he was angry over CIA meddling in Muslim countries.

■ Nov. 3, 1997: Kasi's capital murder trial begins amid heavy security in Fairfax Circuit Court.

■ Nov. 10, 1997: Kasi is convicted of capital murder, other charges.

■ Nov. 12, 1997: Four U.S. businessmen are killed in Pakistan; officials there link the attack to retaliation for Kasi's conviction.

■ Nov. 14, 1997: Jury recommends death sentence for Kasi.

■ Jan. 23, 1998: Judge J. Howe Brown sentences Kasi to death.

■ Nov. 6, 1998: Virginia Supreme Court upholds Kasi's conviction and sentence.

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avoid possible violent acts of reprisal."

Compton wrote that Kasi was sentenced to death "not because he had a political motive, but because he murdered two innocent men, and maimed three others, in an extremely brutal and premeditated manner."

Two days after Kasi's conviction, four American oil company auditors were shot to death in Pakistan, apparently in retaliation.

The Supreme Court said Fairfax Circuit Judge J. Howe Brown exercised "sound discretion" in denying Kasi's motion for a mistrial after one juror heard a portion of a news report about the slayings in Pakistan.

Sanders said he probably would seek a rehearing before the Virginia Supreme Court. If that fails, Kasi can still appeal in the federal courts.

David Botkins, spokesman for Attorney General Mark Earley, said lawyers for the state "will continue to move aggressively as we work to uphold the conviction and sentence" in the Kasi case.

The CIA had no comment, spokeswoman Anya Guilsher said.

In other cases, the Supreme Court rejected the appeals of death row inmates Bobby Wayne Swisher and James Edward Reid.

Swisher was convicted last year of abducting and raping Dawn McNeese Snyder of Stuart's Draft, Va., then slashing her throat and throwing her body into the South River. The Supreme Court rejected his claims that his confession and evidence seized at his home were improperly obtained.

Reid pleaded guilty last year to the stabbing death, attempted rape and attempted robbery of Annie V. Lester in Montgomery County, Va. Reid argued he should have been spared the death penalty because of medical experts' testimony that he may have killed Lester during a wine-induced "black out."

The Supreme Court said that evidence alone was not enough to offset the judge's finding that the crime was "outrageously . . . vile, horrible or inhuman."